

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**This filing relates to the
Commonwealth.**

**REPLY OF THE COMMONWEALTH OF PUERTO RICO TO RESPONSE FILED BY
EDDIE MONTALVO [ECF NO. 13789] TO THE TWO HUNDRED FIRST OMNIBUS
OBJECTION (SUBSTANTIVE) OF THE COMMONWEALTH OF PUERTO RICO TO
CLAIMS ASSERTED BY COFINA BONDHOLDERS**

To the Honorable United States District Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth,” or “Debtor”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of the Commonwealth pursuant to section 315(b) of the *Puerto Rico*

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”, and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the “Debtors”) (Bankruptcy Case No. 19-BK-5532-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Oversight, Management, and Economic Stability Act (“PROMESA”),² files this reply (the “Reply”) to the response [ECF No. 13789] (the “Response”) filed by claimant Eddie Montalvo (“Montalvo”), to the *Two Hundred First Omnibus Objection (Substantive) of the Commonwealth of Puerto Rico to Claims Asserted by COFINA Bondholders* [ECF No. 13410] (the “Two Hundred First Omnibus Objection”). In support of this Reply, the Commonwealth respectfully represents as follows:

1. On June 11, 2020 the Oversight Board filed the Two Hundred First Omnibus Objection, seeking to disallow in whole or in part certain proofs of claim (collectively, the “Claims to Be Disallowed”), each as listed on Exhibit A thereto, that assert liability based on an ownership interest in bonds issued by the Puerto Rico Sales Tax Financing Corporation (“COFINA”). As set forth more fully in the Two Hundred First Omnibus Objection and supporting exhibits thereto, each of the Claims to Be Disallowed seeks recovery for amounts for which the Commonwealth of Puerto Rico is not liable because the claims (1) were compromised and settled pursuant to the Settlement Order,³ and (2) were released and discharged in accordance with the Plan and Amended Confirmation Order. Two Hundred First Omnibus Objection ¶¶ 17–22.

2. Any party who disputed the Two Hundred First Omnibus Objection was required to file a response by 4:00 p.m. (Atlantic Standard Time) on July 14, 2020, in accordance with the Court-approved notice attached to the Two Hundred First Omnibus Objection as Exhibit C, which was served in English and Spanish on the individual creditors subject to the Two Hundred First Omnibus Objection, the U.S. Trustee, and the Master Service List (as defined in the *Twelfth*

² PROMESA is codified at 48 U.S.C. §§ 2101–2241.

³ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Two Hundred First Omnibus Objection.

Amended Case Management Procedures [ECF No. 13383-1]). *See Certificate of Service* [ECF No. 13480].

3. On July 21, 2020, Montalvo filed the Response. The Response does not dispute that Montalvo's proof of claim, which was filed against the Commonwealth on May 22, 2018, and logged by Prime Clerk as Proof of Claim No. 27995 (the "Montalvo Claim"), asserts ownership of bonds issued by COFINA and bearing CUSIP 74529JAC9, and therefore seeks to hold the Commonwealth liable for bonds issued by COFINA.⁴ *See* Montalvo Claim at 12. Instead, the Response states Montalvo "understand[s . . . the Commonwealth is] seeking to confiscate the remainder of our original \$75,000 investment in Bonds of the Government of Puerto Rico", "do[es] not understand what the Omnibus Objection is that seeks to take away from me what is left of my investment" in COFINA bonds, and "ha[s] not received any compensation for the money transferred to Cofina." Response at 1.

4. The Commonwealth is deeply mindful of the concerns raised by the Response and of the impact of these Title III Cases on the people of Puerto Rico. However, as set forth in the Two Hundred First Omnibus Objection, the Commonwealth is not liable for the COFINA bonds asserted by the Montalvo Claim.

5. Pursuant to Paragraph 55 of the Settlement Order, all claims against the Commonwealth arising from or relating to the relationship of the Commonwealth and COFINA have been released. Settlement Order ¶ 55. Furthermore, pursuant to Paragraph 3(c) of the Settlement Agreement, and Paragraph 7 of the Amended Confirmation Order, the adversary proceeding between the Commonwealth and COFINA concerning the Commonwealth-COFINA Dispute has been dismissed with prejudice following the approval of the compromise and

⁴ <https://emma.msrb.org/Security/Details/A845A59DB975F9CC04901BF91445E81F6>.

settlement of the Commonwealth-COFINA Dispute. In addition, pursuant to Paragraph 29(f) of the Amended Confirmation Order, “[o]n the Effective Date, and in consideration of the Commonwealth-COFINA Dispute Settlement and the resolution of the Interpleader Action, to the fullest extent permissible under applicable law, the Commonwealth shall be released from all liability from all Claims and Causes of Action held by any Creditor, solely in such capacity, arising from or relating to the relationship of the Commonwealth and COFINA, including, without limitation, any Claim or Cause of Action arising from or relating to the commencement of the Adversary Proceeding and pendency and the compromise and settlement of the Interpleader Action and the allocation of funds in accordance with Section 2.1 of the Plan.” Amended Confirmation Order, ¶ 29(f).⁵

6. Because the Montalvo Claim seeks to hold the Commonwealth liable for bonds issued by COFINA, it arises from or relates to the relationship between the Commonwealth and COFINA. The Commonwealth has been released from all liability for COFINA bonds pursuant to the Settlement Order, Amended Confirmation Order, and the Plan.

7. Accordingly, the Commonwealth respectfully requests the Court grant the Two Hundred First Omnibus Objection and disallow the Montalvo Claim, notwithstanding the Response.

⁵ Pursuant to the Plan, “Claim” is defined as “[a]ny right to payment or performance, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, known or unknown or asserted or unasserted; or any right to an equitable remedy for breach or enforcement of performance, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, and all debts, suits, damages, rights, remedies, losses, liabilities, obligations, judgments, actions, causes of action, demands, or claims of every kind or nature whatsoever, in law, at equity, or otherwise.” Plan § 1.53.

Dated: January 4, 2021
San Juan, Puerto Rico

Respectfully submitted,

/s/ Ricardo Burgos Vargas
Ricardo Burgos Vargas
USDC No. 218210
A&S LEGAL STUDIO, PSC
434 Ave. Hostos
San Juan, PR 00918
Tel: (787) 751-6764
Fax: (787) 763-8260

/s/ Brian S. Rosen
Martin J. Bienenstock (*pro hac vice*)
Brian S. Rosen (*pro hac vice*)
PROSKAUER ROSE LLP
Eleven Times Square
New York, NY 10036
Tel: (212) 969-3000
Fax: (212) 969-2900

*Attorneys for the Financial Oversight and
Management Board for Puerto Rico, as
representative for the Commonwealth of
Puerto Rico*